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September 28, 2021

VIA ECF

Hon. Vernon S. Broderick, U.S.D.J.
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, NY 10007

Re: *Franko v. Lewnowski et al.*, No. 21-cv-6115 (VSB)

Dear Judge Broderick:

We represent Defendants in the above-referenced action.


In accordance with the Court's September 22, 2021 Order (Dkt. No. 17), we write to advise the Court that Defendants' prior motion to dismiss directed to the initial complaint (Dkt Nos. 12-13) should be deemed moot without prejudice to refiling a new motion to dismiss pursuant to Federal Rule of Civil Procedure 15(a)(3). Defendants intend to revise their motion papers to account for certain revisions to the initial complaint now reflected in the Amended Complaint. Unless the Court orders otherwise, Defendants will file their motion to dismiss the Amended Complaint on October 5, 2021.

Respectfully submitted,

/s/ Benjamin R. Nagin

Benjamin R. Nagin

cc: All Counsel of Record (via ECF)

APPLICATION GRANTED
SO ORDERED 
VERNON S. BRODERICK
U.S.D.J. 9/29/2021

Defendants' motion to dismiss, (Doc. 12), is DENIED AS MOOT. Defendants are directed to file any motion to dismiss Plaintiff's amended complaint on or before October 5, 2021, Plaintiff is directed to submit his response in opposition on or before October 26, 2021, and Defendants are directed to submit any reply memorandum of law on or before November 9, 2021. The Clerk's office is directed to terminate the open motion at Document 12.